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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF THE PAVERS AND
ROAD BUILDERS DISTRICT
COUNCIL WELFARE, PENSION,
ANNUITY, AND APPRENTICESHIP,
SKILL IMPROVEMENT AND SAFETY
FUNDS,

BROOKLYN OFFICE
ORDER

13-CV-4160 (NGG) (VVP)

Plaintiffs,

-against-

HEAVY CONSTRUCTION,

Defendant.

X

NICHOLAS G. GARAUFIS, United States District Judge.

Plaintiffs Trustees of the Pavers and Road Builders District Council Welfare, Pension, Annuity, and Apprentice, Skill Improvement, and Safety Funds (“Plaintiffs”) commenced this action on July 22, 2013, alleging violations of Employee Retirement Income Security Act, 29 U.S.C. §§ 1001, et seq. (“ERISA”) and the Labor Management Relations Act, 29 U.S.C. § 185 (“LMRA”). (Compl. (Dkt. 1).)

After Defendant failed to answer or appear in this case, Plaintiffs moved for default judgment against Defendant on December 5, 2013. (Pl. Mot. for Default J. (Dkt. 10).) On December 11, 2013, the court referred this motion to Magistrate Judge Viktor V. Pohorelsky for a Report and Recommendation (“R&R”) pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b)(1). (Dkt. 28.) On September 10, 2014, Judge Pohorelsky issued an R&R, recommending that Plaintiffs’ motion be granted and that Plaintiffs be awarded (1) unpaid contributions in the amount of \$198,391.28; (2) interest on the unpaid contributions in the amount of \$50,732.80 through September 15, 2014, plus \$54.35 per day thereafter to the date of

judgment; (3) liquidated damages in the amount of \$39,678.26; (4) audit costs of \$4,992; and (5) attorney's fees and costs in the amount of \$2,576.50. (R&R (Dkt. 21).) Judge Pohorelsky denied Plaintiffs' request for interest on late payments. (*Id.* at 10.)

No party has objected to Judge Pohorelsky's R&R, and the time to do so has passed. See Fed. R. Civ. P. 72(b)(2). (See also R&R at 14 ("Any objections to the Report and Recommendation above must be filed with the Clerk of the Court within 14 days of receipt of this report. Failure to file objections within the specified time waives the right to appeal any judgment or order entered by the District Court in reliance on this Report and Recommendation.").) Therefore, the court reviews the R&R for clear error. See Gesualdi v. Mack Excavation & Trailer Serv., Inc., No. 09-CV-2502 (KAM), 2010 WL 985294, at *1 (E.D.N.Y. Mar. 15, 2010); La Torres v. Walker, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000); cf. 28 U.S.C. § 636(b)(1). Finding no clear error, the court adopts the R&R in full. See Porter v. Potter, 219 F. App'x 112 (2d Cir. 2007) (summary order).

Accordingly, the court ADOPTS IN FULL the R&R and ENTERS default judgment against Defendant. The court AWARDS Plaintiffs (1) unpaid contributions in the amount of \$198,391.28; (2) interest on the unpaid contributions in the amount of \$50,732.80 through September 15, 2014, plus \$54.35 per day thereafter to the date of judgment; (3) liquidated damages in the amount of \$39,678.26; (4) audit costs of \$4,992; and (5) attorney's fees and costs in the amount of \$2,576.50.

SO ORDERED.

s/Nicholas G. Garaufis

Dated: Brooklyn, New York
September 3^b, 2014

NICHOLAS G. GARAUFIS
United States District Judge